

REHEARING EN BANC GRANTED BY ORDER FILED 10/10/96;  
UNPUBLISHED OPINION FILED 7/23/96 IS VACATED BY  
UNPUBLISHED ORDER.

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

FILED: October 10, 1996

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**No. 95-6603**  
(CR-90-54-WS, CA-93-357)

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WILLIE REYNOLDS,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

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O R D E R

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The appellant's petition for rehearing and suggestion for rehearing en banc were submitted to this Court; the appellee submitted a response to the petition.

Upon consideration of the parties' submissions, the Court GRANTS the petition for rehearing and VACATES its judgment of July 23, 1996. Further, the judgment of the district court regarding the appellant's fourth claim, pertaining to his conviction of the charge specified in Count Two of the Indictment, is VACATED and REMANDED to the district court for further consideration in light

of Bailey v. United States, 116 S. Ct. 501 (1995), United States v. Hawthorne, 94 F.2d 118 (4th Cir. 1996), and United States v. Smith, 94 F.2d 122 (4th Cir. 1996).

The judgment of the district court regarding the appellant's remaining claims is AFFIRMED.

Entered at the direction of Judge Hall, with the concurrence of Judge Murnaghan and Judge Niemeyer.

For the Court,

\_\_\_\_\_/s/ Patricia S. Connor\_\_\_\_\_  
Clerk

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 95-6603**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WILLIE REYNOLDS,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Winston-Salem. N. Carlton Tilley, Jr., District Judge. (CR-90-54-WS, CA-93-357)

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Submitted: March 12, 1996

Decided: July 23, 1996

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Before HALL, MURNAGHAN, and NIEMEYER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Willie Reynolds, Appellant Pro Se. Paul Alexander Weinman, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals from the district court's order denying his 28 U.S.C. § 2255 (1988) motion. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we affirm on the reasoning of the district court. United States v. Reynolds, Nos. CR-90-54-WS; CA-93-357 (M.D.N.C. Mar. 31, 1995). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED